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# In the Supreme Court of the United States

OCTOBER TERM, 1952

No. 607

WILLIAM J. HEITSCH, Executor of the Estate of JANET H. HEITSCH, Deceased, *Petitioner*

v.

THOMAS GILES KAVANAGH, Administrator of the Estate of GILES KAVANAGH, Deceased, Collector of Internal Revenue at Detroit, Michigan

**On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit**

## BRIEF FOR THE RESPONDENT IN OPPOSITION

### OPINIONS BELOW

The opinion of the District Court (R. 152-156) is reported at 97 F. Supp. 749. The opinion of the Court of Appeals (R. 170-174) is reported at 200 F. 2d 178.

## JURISDICTION

The judgment of the Court of Appeals was entered on November 19, 1952. (R. 170.) The petition for a writ of certiorari was filed on February 16, 1953. The jurisdiction of this Court is invoked under 28 U.S.C., Section 1254.

## QUESTION PRESENTED

Whether certain provisions of the federal estate tax law are constitutional.

## STATEMENT

Janet H. Heitsch died on November 8, 1941. Her will was duly admitted to probate, and taxpayer was appointed executor of her estate. (R. 152.) A federal estate tax return was filed by the executor which reported gifts made to persons named as residuary legatees in her will. No transfers by decedent during her lifetime were included in her taxable estate. Federal estate taxes and interest in the amount of $68,621.89 were paid under protest by taxpayer. A claim for refund of the full amount paid for estate taxes was denied. No closing agreement or compromise was proposed or entered into by the executor or any other person on behalf of the estate of the decedent. (R. 153.)

The District Court entered judgment against the taxpayer. (R. 156.) The Court of Appeals affirmed. (R. 170-174.)

## ARGUMENT

No basis for certiorari is presented. The constitutionality of the federal estate tax law has long been settled. *Knowlton* v. *Moore,* 178 U.S. 41; *New York Trust Co.* v. *Eisner,* 256 U.S. 345. The Court of Appeals in its *per curiam* opinion (R. 170-174) painstakingly examined each of the numerous contentions of unconstitutionality which were made by petitioner. It correctly concluded that, as to some, he had no standing to complain; and that, as to the others, the arguments were patently insubstantial. There are no conflicting decisions.

## CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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APRIL, 1953.

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